



September 23, 2014

House Natural Resources Committee  
Lansing, Michigan

Re: HB 4401 – Mining operation – creation of lakes

Dear Committee members,

The Michigan Environmental Council is a coalition of over 65 environmental, conservation, and faith-based member groups located across the state. A number of these group work exclusively on programs to protect Michigan fresh water and ensuring that development activities do not result in degradation of those resources and the aquatic species which rely on them to survive.

Under the Inland Lakes and Stream part of the Natural Resources and Environmental Protection Act a permit is required if activities create a lake more than 5 acres in size. This legislation would remove the duty to get a permit if the lake size was kept below 5 acres through artificial pumping of natural means.

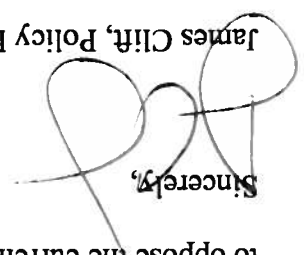
We think it is important to note that these operations must obtain a permit from the state if they either make a withdrawal of over 100,000 gallons per day (Part 327) or discharge into the water of the state (Part 31). In those cases, it would be most efficient if the state could issue all permits to the operation at the same time.

Secondly, if the only reason an operation is not being required to get a permit is active pumping, a permit will eventually be required when pumping stops. We believe there are potential disadvantages to waiting until after the fact to get the permit:

- 1) The creation of the lake could have negative impacts on other ponds or streams in the area. Property owner may have invested money in digging ponds on their property, just to see that investment disappear once excavation begins nearby.
- 2) Secondly, riparian property owners to nearby streams may see a significant change of flow due to the excavation violating the reasonable use doctrine. They should know in advance the nature of the operation and the possible impingement of their riparian rights..
- 3) The committee should careful explore the types of conditions or activity currently included in a permit. Conditions such as making sure the near shore underwater slope of the lake does not cause a drowning hazard should be addressed in advance not after the fact.
- 4) Lastly, after the fact permit may result in operations going bankrupt or not having sufficient resources to perform necessary work. This risk should not unnecessarily be placed on the state.

In summary, the Michigan Environmental Council believes the risks and disadvantages of waiting until after the fact outweigh any potential benefits. Therefore, we ask members to oppose the current version of HB 4401.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a long horizontal stroke extending to the right.

James Cliff, Policy Director